REMARKS

Claims 1-21, 23-29, and 31-34 are pending.

Claims 22, 30, and 35-37 have been cancelled.

Claims 38 and 39 have been added.

In the Office Action mailed October 7, 2009, claims 1-37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,775,692 (Albert) in view of "Locality-Aware Request Distribution in Cluster-based Network Servers" (Pai).

Independent claim 1 has been amended to improve the form of claim 1. Claim 1 now recites that the TCP handoff modules implement a TCP handoff protocol that works within kernel levels of the operating systems (located in the first server computer and selected server computer). Support for the amendment of claim 1 can be found at least on page 24, lines 10-29, of the present application.

The Office Action conceded that the primary reference, Albert, fails to disclose the following element of claim 1:

> handing off said communication session to a selected server computer from said first server computer over a persistent control channel using TCP handoff modules that are dynamically loadable within TCP/IP stacks in operating systems located at both said first server computer and said selected server computer, wherein the TCP handoff modules implement a TCP handoff protocol that works within kernel levels of operating systems.

However, the Office Action incorrectly argued that Pai discloses the claimed subject matter conceded to be missing from Albert. 10/07/2009 Office Action at 4. Specifically, the Office Action cited §§ 5-6.1 on pages 213-214 of Pai. *Id.* Section 5 of Pai on page 213 refers to a TCP handoff protocol that is used to hand off established client TCP connections between a front-end node and a back-end node. Pai, pg. 213, § 5, ¶ 1. Fig. 15 on page 213 of Pai shows protocol stacks in a client, a front-end server, and a back-end server. As explained by Pai, the handoff protocol "is layered on top of TCP and runs on the front-end and back-end nodes." *Id.*, § 5, ¶ 3. However, there is no hint in Pai that the "handoff protocol" that is "layered on top of TCP" in either the front-end node or back-end node is "**dynamically loadable within TCP/IP stacks** in operating systems located at both said first server computer and said selected server computer," as recited in claim 1.

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Therefore, even if Pai and Albert could be hypothetically combined, the hypothetical combination of the references would not have led to the subject matter of claim 1. Moreover, in view of the fact that neither Albert nor Pai provides any hint of the dynamically loadable TCP handoff modules recited in claim 1, a person of ordinary skill in the art would not have prompted to combine the teachings of Pai and Albert to achieve the claimed subject matter.

Therefore, the obviousness rejection of claim 1 is erroneous.

Independent claim 11 has been amended to recite that the first BTCP module is a dynamically loadable kernel module (DLJM) loaded in the first server computer without modifying a first operating system of the first server computer. Claim 11 has also been amended to recite that the second BTCP module is a DLKM loaded in the selected server computer without modifying a second operating system of the selected server computer. Support for the amendments of claim 11 can be found in the following passages of the present application: page 17, line 27 – page 18, line 11. Neither Albert nor Pai provides any teaching or hint of DLKMs as recited in claim 11. Therefore, even if Albert and Pai could be hypothetically combined, the hypothetical combination of the references would not have led to the claimed subject matter.

Moreover, in view of the fact that neither Albert nor Pai provides any hint of DLKMs as recited in claim 11, it is respectfully submitted that a person of ordinary skill in the art would not have been prompted to combine the teachings of Pai and DLKM to achieve the claimed subject matter.

Claim 11 is therefore non-obvious over Pai and Albert.

Independent claim 26 has been amended to recite that the first BTCP module and first UTCP module are dynamically loadable kernel modules (DLKMs) that are dynamically loadable and unloadable in the server computer without modifying the operating system. Support for the amendments of claim 26 can be found in similar passages as those noted above with respect to claim 11. As discussed above, neither Albert nor Pai provides any teaching or hint of DLKMs. Therefore, the hypothetical combination Pai and Albert would not have led to the subject matter of claim 26. Moreover, a person of ordinary skill in the art would not have been prompted to combine the teachings of Albert and Pai to achieve the subject matter of claim 26.

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Dependent claims, including newly added dependent claims 38 and 39, are allowable for at least the same reasons as corresponding independent claims.

In view of the foregoing, allowance of all claims is respectfully requested.

The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10010812-1).

Respectfully submitted,

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